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Uniformity of Federal Inheritance Tax [Florida v. Mellon, 47 Sup Ct 265]

James Parker Hall

COMMENT ON RECENT CASES

CONSTITUTIONAL LAW—FEDERAL TAXATION—UNIFORMITY OF FEDERAL INHERITANCE TAX.—[United States] In the recent case of *Florida* v. *Mellon*[1] the federal Supreme Court upholds the provision of the graduated inheritance tax imposed by the Revenue Act of 1926[2] by which the federal tax thereunder is credited with the amount of any similar tax paid to any state, territory, or the District of Columbia upon property subject to the federal tax, not exceeding 80% of the latter. It had been suggested that this provision might violate the constitutional requirement that federal excises "shall be uniform throughout the United States,"[3] inasmuch as its practical effect was to cause the revenue derived thereunder by the United States from a given gross estate to differ in each state according to the tax laws there in force. Thus, under the Act of 1926, an estate of $500,000 would be subject to a federal tax of 5% upon $400,000=$20,000. If the estate were wholly in Florida, which has no inheritance tax, the full $20,000 would be paid to the United States. If it were in Illinois and subject to a 10% tax (=$50,000), there would be 80% of $20,000 (=$16,000) credited on the federal tax, leaving only $4,000 to be paid to the United States. The court said:

"The contention that the federal tax is not uniform, because other states impose inheritance taxes while Florida does not, is without merit. Congress cannot accommodate its legislation to the conflicting or dissimilar laws of the several states, nor control the diverse conditions to be found in the various states, which necessarily work unlike results from the enforcement of the same tax. All that the Constitution (article 1, sec. 8, cl. 1) requires is that the law shall be uniform in the sense that by its provisions the rule of liability shall be alike in all parts of the United States."[4]

The constitutional requirement that federal bankruptcy laws be uniform throughout the United States[5] has been similarly interpreted,[6] and does not preclude the statutory recognition and enforcement in federal bankruptcy proceedings of differing state laws upon such subjects as dower, exemptions, validity of mortgages, priorities, and voidable transfers, though the practical effect of this is to give a different treatment to both debtors and creditors in different states—all of which, under a federal system with large powers of local self-government, is good sense.

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1. (1927) 47 S. Ct. 265.
2. 44 St. at L. 9, 69-70, ch. 27 sec. 301.
3. U. S. Const. Art. I sec. 8 clause 1.
4. 47 S. Ct. at 266.
5. U. S. Const. Art. I sec. 8 clause 4.
6. See *Hanover National Bank* v. *Moyses* (1902) 186 U. S. 181; *Stellwagen* v. *Clum* (1918) 245 U. S. 605.